IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTY FIRST DAY OF JANUARY
TWO THOUSAND AND SIX

PRESENT

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO : 24286 of 1996

Between:

1 Smt.Zainab Begum, W/o. Mahdi Hussain,
R/o. 105-23/4/3, Masab Tank,
Hyderabad.
2 B.Janak Ram, S/o. Parasram,
R/o. 14-9-114, Chudi Bazar,
Hyderabd. PetitionerNo.2 is impleaded as per court order in
WPMP.No.5127/00.

..... PETITIONERS

AND

1 State of Andhra Pradesh Rep., by Secretary, Revenue,
Secretariat, Hyderabad.
2 The Municipal Corporation of Hyderabd, Rep., by its Commissioner,
Tank Bund Road, Hyderabad.

.....RESPONDENTS

The Court made the following :

ORDER:

In this writ petition filed by the first petitioner, second petitioner brought herself on record on the ground that she purchased the property of the first petitioner in respect of which this petition is filed.

2. This petition is filed questioning the notification issued in respect of the building belonging to the father of the first petitioner, inherited by her after his death, under the Andhra Pradesh (Andhra Area) Slum Improvement (Acquisition of Land) Act, 1956 (for short 'the Act') on the ground that no notice, or an opportunity of being heard was given either to her or to her father.

3. On behalf of the respondents, the Special Deputy Collector, Land Acquisition (MCH) Hyderabad filed his counter affidavit, contending *inter alia* that two persons shown as owners of the said property were issued notice under Section 3(2) of the Act and since their whereabouts were not known, notice was affixed at the place after conducting a panchanama and thereafter a notice was published in A.P. Gazette No. 12 on 19-03-1992 and so the petitioners are not entitled to any relief.

4. The contention of the learned counsel for the petitioner is that in view of the ratio laid down by a Full Bench of this Court in ***Pithana Apparao Vs. State of Andhra Pradesh*** that the expression 'person interested' in the Explanation to Section 3(2) of the Act would include the owner of the land and since the owner should not be deprived of an opportunity to object the declaration under Section 3(1) and the intention to acquire the land under Section 3(2) also be served on the owner just as a person interested in the land, the notification impugned is liable to be set aside for want of notice.

5. There is no representation on behalf of the second respondent. Learned Assistant Government Pleader seeks time. I see no reasons to grant time since no counter affidavit is filed on behalf of first respondent.

6. Even as per the averments in the counter affidavit filed on behalf of the second respondent, it is clear that the father of the first petitioner was neither served with a notice nor was given an opportunity of being heard. Since the father of the petitioner, at the time of notification, is a 'person interested', he is entitled to notice in view of the proviso to Sub Section (2) to Section 3 of the Act, which lays down that before publication of a notice, the government should call upon the owner or any other person interested in such land to show cause why the land should not be acquired and after hearing the cause, if any, shown by the person interested in the land, the Government may pass such order as it deems fit. In ***P.T.Reddy Vs. Commissioner Municipal Corporation, Hyderabad*** it is held that Acquisition of land under the Act without observing the procedure of issuing notices to 'interested persons' is an illegality which renders the notification published illegal.

7. In view of the ratio laid down in the above decisions, since no notice admittedly was issued to the father of the petitioner, the notification dated 23-12-1991 published in A.P. Gazette on 19-03-1992 is declared illegal and arbitrary. However, this order does not prevent the respondents from issuing a fresh notification after following the procedure prescribed by the Act.

8. In the result, the writ petition is allowed. No costs.

C.Y.SOMAYAJULU, J.

31-01-2006

Kvsn